



appeal for Board review of their examination papers. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 78-79 for detailed background information.) BRGG anticipates that the additional resources created by these amendments will enable the Board to hire additional staff for examination processing and enforcement activities. BRGG was scheduled to hold a public hearing on these proposed regulatory amendments on October 7 in Los Angeles.

**BRGG Examination Development and Validation Process Update.** BRGG concluded earlier this year that it could save a considerable amount of money if it purchased the appropriate hardware and software enhancements and conducted its own examination development program. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 79 for background information.) In accordance with this plan, the Board has recently purchased a new 386 Compaq computer to begin developing the program. The new system will perform an item analysis of different questions and automatically categorize them according to subject. The system will also enable the Board to generate new examinations in future years without having to retype them each year. Both of these functions are expected to greatly reduce the amount of time which is currently dedicated toward accomplishing these tasks.

BRGG still intends to contract with a private company to conduct a validation of the resulting examination. The validation process will require the contractor to send out a series of extensive questionnaires to registered geologists to determine the nature of the issues and work they encounter in their professional practice. After determining the "state of the industry" and the knowledge, skills, and abilities necessary to function as a competent licensee, the contractor will evaluate the examination created by the Board and make appropriate recommendations for revisions as necessary. Because the examination is updated every year, BRGG expects that the validation process will result in few, if any, modifications. BRGG is currently seeking a contractor to carry out the validation process.

**BRGG's Budget Change Proposal for Hiring Additional Staff.** BRGG has unsuccessfully attempted to seek budget change proposals (BCPs) for hiring additional staff for the past two years and is trying again this year. Because the Board has proposed regulatory amendments increasing its licensing fees, BRGG should have sufficient funds to convince the Department of Finance (DOF) and the Governor's office to ap-

prove the BCPs this time. The additional staff would be hired for examination processing and enforcement purposes, and would hopefully enable the Board to administer its licensing examination twice per year and develop a more aggressive enforcement program. At this writing, the Board is awaiting approval from DOF and the Governor's office. BRGG is especially sensitive to the BCP approval at this time of year, as its limited staff are processing hundreds of exam applications for the November examination.

## LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 79:

**AB 892 (Tanner)**, as amended May 15, would rename the Geologist and Geophysicist Act as the Earth Scientist Act and would revise and recast specified provisions to authorize BRGG to regulate the practice of groundwater hydrology. BRGG would become the Board of Registration for Earth Scientists and provide for the registration of groundwater hydrologists. This bill is pending in the Senate Business and Professions Committee.

**SB 958 (Rogers)**, as amended April 11, would amend Public Resources Code section 2774, which currently specifies that those conducting surface mine inspections must be state-registered geologists, state-registered civil engineers, state-licensed architects, or state-registered foresters. SB 958 would delete the requirement for state registration or licensure, and states that the proposed inspections would be conducted by a qualified professional with experience in land reclamation. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

## RECENT MEETINGS:

At its July 9 meeting, the Board elected Howard Spellman as BRGG President and re-elected Karen Melikian as Vice-President. Mr. Spellman succeeds James Weddle, who will continue to serve on the Board as a professional member.

At the recommendation of the Professional Practices Committee, which met recently with Assemblymember Sally Tanner, the Board has decided that it has the authority to create a specialty license for hydrogeologists. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 79-80 for background information.) BRGG believes that this new program would accomplish the goals of AB 892 (see *supra* LEGISLATION) and thus make further legislative action on AB 892 un-

necessary. The specifics of the new registration program for hydrogeologists will be developed by BRGG's Professional Practices Committee in the near future. The results of the Committee's efforts may also determine whether AB 892 is pursued during 1992.

Executive Officer Frank Dellechiaie reported that BRGG's consumer brochure is "camera ready" but that the Board has insufficient funds to publish it at this time. He believes that the brochure—which would inform the public about topics ranging from how to file a complaint to what a geologist's work entails—would serve a valuable purpose, but that hiring additional staff for examination processing and enforcement purposes is a more exigent concern at the present time. He intends to pursue another BCP for the brochure, a new directory, and additional hardware next year. Once the BCP for the brochure is approved, he intends to disseminate approximately 5,000 consumer pamphlets to various state agencies and members of the public.

## FUTURE MEETINGS:

January 13 in Los Angeles (tentative).

## BOARD OF GUIDE DOGS FOR THE BLIND

*Executive Officer: Manuel Urena (916) 445-9040*

The Board of Guide Dogs for the Blind has three primary functions. The Board protects the blind guide dog user by licensing instructors and schools to ensure that they possess certain minimum qualifications. The Board also enforces standards of performance and conduct of these licensees as established by law. Finally, the Board polices unlicensed practice.

The Board, authorized by Business and Professions Code section 7200 *et seq.*, consists of seven members, two of whom must be dog users. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce regulations, which are codified in Division 22, Title 16 of the California Code of Regulations (CCR).

The Board currently licenses three guide dog schools and 48 trainers.

## LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 80:

**AB 567 (Hunter)**, as amended April 18, would abolish the Board of Guide Dogs for the Blind and require the train-



## REGULATORY AGENCY ACTION

ers of guide, signal, or service dogs to register with the Department of Consumer Affairs (DCA); these registered trainers would be permitted to authorize other personnel to train the dogs. DCA would be required to establish and maintain a registry of these persons and issue registration certificates. This two-year bill is still pending in the Assembly Human Services Committee.

**SB 756 (Marks)**, as introduced March 6, would change the composition of the Board by providing that one member shall be the Director of the Department of Rehabilitation or his/her representative, one shall be a veterinarian, one shall be a member of the general public, and the remaining members shall be blind persons who use guide dogs. This two-year bill is still pending in the Senate Business and Professions Committee.

### FUTURE MEETINGS:

To be announced.

### BUREAU OF HOME FURNISHINGS AND THERMAL INSULATION

Chief: Gordon Damant  
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The Bureau of Home Furnishings and Thermal Insulation (BHF) is charged with regulating the home furnishings and insulation industries in California. As a division of the state Department of Consumer Affairs (DCA), the Bureau's mandate is to ensure that these industries provide safe, properly labeled products which comply with state standards. Additionally, the Bureau is to protect consumers from fraudulent, misleading, and deceptive trade practices by members of the home furnishings, insulation, and dry cleaning industries. The Bureau is established in Business and Professions Code section 19000 *et seq.*

The Bureau establishes rules regarding furniture and bedding labeling and sanitation. To enforce its regulations, which are codified in Division 3, Title 4 of the California Code of Regulations (CCR), the Bureau has access to premises, equipment, materials, and articles of furniture. The Bureau may issue notices of violation, withhold products from sale, and refer cases to the Attorney General or local district attorney's offices for possible civil penalties. The Bureau may also revoke or suspend a licensee's registration for violation of its rules.

The Bureau is also charged with the registration of dry cleaning plants throughout the state. The registration

process includes submission of information regarding the plant's onsite storage, treatment, and disposal of toxic wastes. The Bureau, however, has no enforcement authority regarding this function.

The Bureau is assisted by a thirteen-member Advisory Board consisting of seven public members and six industry representatives.

### MAJOR PROJECTS:

#### *Furniture Flammability Standards.*

On May 16, BHF submitted its proposed regulatory changes to sections 1374 and 1374.3, Title 4 of the CCR, to DCA for approval. The proposed revisions, known as Technical Bulletin No. 133, would establish higher flammability standards for furniture in public occupancy buildings. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 80; Vol. 11, No. 2 (Spring 1991) p. 78; and Vol. 11, No. 1 (Winter 1991) p. 64 for background information.) DCA Director Jim Conran approved the changes in July, and the package was submitted to the Office of Administrative Law (OAL) on August 2.

OAL rejected the proposed amendments on September 3, citing problems with the necessity and clarity standards and the procedural requirements of the Administrative Procedure Act, Government Code section 11340 *et seq.* OAL stated that the necessity standard in Government Code section 11349.1(a)(3) was not satisfied because the rulemaking file lacked substantial evidence supporting the specific test criteria articulated in the initial and final statement of reasons. According to OAL, although the Bureau demonstrated general necessity for a higher technical standard for seating furniture in public occupancies, it did not articulate necessity for the specific test criteria chosen.

Further, OAL found that the clarity standard in Government Code section 11349.1(a)(3) was not met because the building codes referred to in the Bulletin did not contain an edition or publication date. OAL noted that the failure to include those dates "means the directly affected public will not know which version of which code defines the various types of 'public occupancies' regulated. . . ." The failure to include those references may also create "an impermissible prospective incorporation by reference of any future changes to that code." In addition, OAL found that BHF's use of the term "seating furniture" is unclear in Technical Bulletin No. 133. The Bureau has specific authority for establishing fire retardancy standards for "upholstered" and

"reupholstered" furniture pursuant to Business and Professions Code section 19161. These terms are not used in Technical Bulletin No. 133 and are apparently replaced with the term "seating furniture," which is not defined in statute or regulation. According to OAL, this could lead to confusion as to the definition of "seating furniture," and could also be the source of potential consistency problems.

Finally, OAL found that the rulemaking file does not include all data and documents relied on, as required by Government Code section 11347.3(a)(7), nor did it include copies of all 15-day changes, as required by Government Code section 11347.3(a)(10). BHF has 120 days to respond to OAL's concerns.

**Approval of Proposed License Fee Increase.** On May 17, the Bureau submitted its proposed regulatory changes to section 1107, Title 4 of the CCR, to OAL for approval; the changes increase BHF license fees to the maximum levels authorized by law. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 80; Vol. 11, No. 2 (Spring 1991) p. 78; and Vol. 11, No. 1 (Winter 1991) pp. 64-65 for background information.) On June 6, OAL approved the proposed amendments; the new fees went into effect August 1 for all new and renewal licenses. In its review of the fee increase, DCA's budget office estimated that the changes will provide BHF with \$233,000 in additional revenue during 1991-92.

**Need for Additional Generation of Revenue.** Despite the recent fee increase, DCA's budget office estimates that BHF will again experience cash flow problems in fiscal year 1992-93 and a deficit in 1993-94 unless steps are taken to avoid the potential problem. At the September 10 Advisory Board meeting, four separate remedies were proposed. The first remedy is the reduction of BHF programs and expenditures. The next possibility involves generating additional revenue from present sources. This would include efforts to reduce unlicensed activity and increase the assessments for inspection and laboratory testing costs now imposed on firms whose products are analyzed by BHF's laboratory and found to be in violation of California law. The DCA Director's office has also considered the possibility of obtaining citation powers for BHF inspectors, allowing them to issue citations and fines onsite for discovered violations. If implemented, this would replace BHF's current system of issuing a notice of violation. Finally, BHF might raise its licensing fees once again. Since the